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(c) The degree of control exercised over ambient and operating conditions in the tests, including vehicle calibrations;

(d) Accuracy and precision of the measurement techniques and instrumentation used in the tests;

(e) Disclosure of all test data acquired on the device, whether representing positive, negative, or inconclusive results;

(f) Qualifications and independence of the testing agent; and

(g) The extent to which test data include evaluation of the durability of the device, or its effect on vehicle durability.

§ 610.25 Evaluation of test data.

Valid manufacturer-furnished test data will be evaluated with respect to:

(a) Vehicle applicability;

(b) Dependence of device effects upon vehicle type;

(c) Device effects on fuel economy, and on emissions, with statistical or other caveats as established by the data base;

(d) Definition of claims which can be made based on the available data; and

(e) Substantiation of specified claims made by the manufacturer.

Subpart C—Test Requirement Criteria

§ 610.30 General.

(a) If the Administrator determines, by the criteria given in subpart B, that the claims made for a device are not supported by existing test data or other information, the Administrator will request the manufacturer to furnish additional information, and may design a test program to investigate those areas where claims appear to be erroneous or unsupported or where adverse effects due to use of the device are suspected.

(b) In cases where the Administrator determines on the basis of the preliminary analysis that a device either can have no significant beneficial effect on fuel economy, or will have an adverse effect on emissions, he may elect not to design a test program or test the device and to publish only his preliminary analysis and conclusions.

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(c) If the evaluation was initiated upon application of a manufacturer (as described in § 610.12(c)) and the manufacturer elects not to have the device tested, the Administrator's preliminary analysis and conclusions will be published.

(d) For each device that the Agency intends to test, the Administrator will give the manufacturer prior notice by mail of the Agency's intent to test the device and provide the manufacturer the opportunity to attend the test sessions and to comment on the specific test design and results.

[44 FR 17946, Mar. 23, 1979, as amended at 49 FR 18489, May 1, 1984]

§ 610.31 Vehicle tests for fuel economy and exhaust emissions.

(a) The tests described in subpart D, E, or F may be conducted if existing data or other information are insufficient to support claims for a device in any of these areas:

(1) Degree of improvement in fuel economy

(2) Effect on exhaust emissions

(3) Vehicle applicability

(b) The Administrator may determine that, in certain cases, tests using engine dynamometers are adequate for determining the effect of a device. Examples of such cases are given below.

(1) *Long-term effects.* In some cases, it may be necessary for the engine to operate for several thousand miles before the effectiveness can be adequately measured. In such cases an engine dynamometer will permit a less expensive and better controlled durability and economy test than one in which a vehicle must be driven on a durability route and then tested on a chassis dynamometer or test track.

(2) *Durability requirements.* Aspects of engine durability can be efficiently determined using specialized engine testing rather than through durability mileage accumulation in a vehicle. A number of standard engine tests are presently used which can be incorporated into this requirement.

(c) When in the judgment of the Administrator a device cannot satisfactorily be evaluated using either dynamometer or track versions of the City Fuel Economy Test and the Highway

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Fuel Economy Test, the Administrator will select or design other procedures.

§ 610.32 Test fleet selection.

(a) The composition and size of the test fleet will be determined by the Administrator. In a device evaluation program initiated at the request of the FTC, the composition and size of the test fleet will be determined by the Administrator in consultation with the FTC.

(b) The goal of the test fleet selection will be the provision of a data base adequate to give the Administrator reasonable confidence in the conclusions to be reached.

(c) Once the number of vehicles to be tested has been determined, the Administrator will specify the test fleet makeup by make, model, model year, engine displacement and carburetor, transmission type, and such other factors as he may deem relevant to the testing program.

§ 610.33 Durability tests.

The Administrator may determine that a device under evaluation will require durability testing in addition to the basic evaluation testing for device effectiveness. This requirement may be necessary for several reasons:

(a) A retrofit device manufacturer may claim that some mileage accumulation may be needed before the full effectiveness of the device can be obtained. If such claims are made, durability testing as described in subpart E may be performed. To determine whether the effectiveness change during the mileage accumulation is a function of the device or of the mileage accumulation alone, in some durability tests it may be necessary to run the mileage accumulation on vehicles with and without the device. Due to the high cost of durability testing and in particular of such duplicate testing, it will be used only where it is judged by the Administrator to be necessary.

(b) A device may have a limited life expectancy or be such that it requires replacement or adjustment at a prescribed mileage interval. Confirmatory durability tests may be run to assess whether such mileage intervals are proper and effective.

(c) A device may be suspected of having an adverse effect on the durability of the engine to which it is applied. After identification of a potential failure mode, durability tests may be conducted to investigate any changes in engine characteristics associated with that failure mode. Examples are valve problems, deterioration in spark plug life, increase in carburetor or combustion chamber deposits, or increased engine wear. If it is not possible to directly measure the change in the suspect characteristic, then a durability run may be made as described in subpart E, in which fuel economy and exhaust emissions are periodically checked during the accumulation of up to 15,000 miles.

(d) A critical item which can influence fuel economy is vehicle maintenance. Any durability test program used in evaluation of the effectiveness of a fuel economy device will be designed to differentiate maintenance effects from the effect of the device. Any maintenance associated with the device operation will be rigidly controlled. If the maintenance appears to be a significant factor in the effectiveness of a device, then it may be necessary to run a control test on vehicles without the device installed where the same maintenance is performed to quantify any incremental effect of that maintenance.

§ 610.34 Special test conditions.

If the Administrator determines that a device may have potentially detrimental effects on the operation of a vehicle when operated in ambient conditions outside the range specified in 40 CFR part 86, or if the device manufacturer claims a fuel economy improvement in such conditions, additional tests may be performed. These tests will determine whether the device will significantly limit the operational usefulness of the vehicle and will assess the claimed fuel economy benefit.

(a) *Extreme temperatures.* As required by the Administrator, tests will be conducted at extreme ambient temperature conditions to determine the effect due to devices (e.g. engine heaters) for which fuel economy improvements at extreme temperatures are made. For other devices it may be necessary to